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6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**

8 Case No. _____

9 CLAUDIA ECKELMANN,
10 Plaintiff,

11 v.

12 HIGBEE & ASSOCIATES,
13 Defendant.

**NOTICE OF REMOVAL BY
DEFENDANT HIGBEE &
ASSOCIATES**

[Filed concurrently with Civil Cover
Sheet, Notice of Interested Parties and
Corporate Disclosure Statement]

Complaint Filed: January 18, 2018

14
15
16
17 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

18 **PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1331, 1441, 1446,
19 and 1454, Defendant Higbee & Associates, hereby removes this civil action from
20 the Superior Court of California for the County of Contra Costa, where it is
21 currently pending as Case No. MSC19-0072, to the United States District Court for
22 the Northern District of California.

23 This Court has original jurisdiction over this action under 28 U.S.C. § 1331
24 and § 1454 on the grounds that the Superior Court complaint seeks adjudication of
25 a copyright dispute solely arising under federal law, 17 U.S.C. §§ 101 *et seq.*

26 In accordance with 28 U.S.C. § 1446(a), set forth below is a statement of the
27 grounds for removal.
28

BACKGROUND

Non-party CartoonStock Ltd. (“CartoonStock”) owns a searchable database of over 500,000 humorous and political cartoons, cartoon pictures and illustrations by more than 1000 of the world's top cartoonists, all available for licensing and download. Utilizing an intellectual property management company, PicRights Ltd. (“PicRights”), CartoonStock discovered that one of its protected works (the “Work”) was being used by Plaintiff Claudia Eckelmann without permission or record of a license.

In November of 2018, CartoonStock and PicRights retained Defendant Higbee & Associates, an intellectual property law firm, to send a cease and desist letter to Eckelmann and to request payment of a retroactive license for unauthorized use of the Work. On November 14, 2018 Higbee & Associates sent a letter stating, in part, that if Eckelmann did not have a valid license, “we believe the use of the [W]ork is a violation of The Copyright Act, Title 17 of the United States Code.”

After many attempts to resolve the matter, the parties could not come to a resolution and, on January 11, 2019, Higbee & Associates considered the matter closed. On January 18, 2019 Eckelmann filed a small claims action in the Superior Court for the County of Martinez, Case no. MSC19-0072 (the “Superior Court Action”). The Superior Court Action named Higbee & Associates as the sole defendant.

On the Pleading form under the section labeled “[w]hy does the defendant owe the plaintiff money,” Eckelmann stated:

“The defendant [Higbee & Associates] is claiming that [plaintiff Eckelmann] owes \$500. This action is deemed to adjudicate that claim.”

On the Pleading form under the section labeled “[w]hen did this happen,” Eckelmann listed November 14, 2018, which is the date that Higbee & Associates sent the letter to Eckelmann alleging copyright infringement.

Attached hereto as Exhibit A is a true and correct copy of the Summons, Pleading, and Proof of Service of the Superior Court Action.

1 On January 29, 2019, the Clerk of the Court mailed notice of the Superior
2 Court action to Higbee & Associates. The notice was received on January 31, 2019.

3 **GROUND FOR REMOVAL**

4 As set forth more fully below, this Court has exclusive subject matter
5 jurisdiction under 28 U.S.C. § 1331, which states that “the district courts shall have
6 original jurisdiction of all civil actions arising under the Constitution, laws, or
7 treaties of the United States,” and under 28 U.S.C. § 1454, which stated that “[a]
8 civil action in which any party asserts a claim for relief arising under any Act of
9 Congress relating to patents, plant variety protection, or copyrights may be removed
10 to the district court of the United States for the district and division embracing the
11 place where the action is pending.”

12 **I. The Superior Court Action Arises Under Federal Copyright Law.**

13 A state action can generally be removed if that action could have been
14 brought originally in federal court, i.e. if the District Court has original jurisdiction.
15 28 U.S.C. § 1441(a); *see also* 28 U.S.C. § 1454 (recognizing removal if an asserted
16 claim for relief arises under “patents, plant variety protection, or copyrights”). To
17 determine whether this Court has original jurisdiction, this Court “examine[s] the
18 ‘well pleaded’ allegations of the complaint and ignore[s] potential
19 defenses.” *Beneficial Nat'l Bank v. Anderson*, 539 U.S. 1, 6 (2003) (citations
20 omitted).

21 In this case, Eckelmann’s allegations arise directly out of the November 14,
22 2018 letter alleging copyright infringement of CartoonStock’s Work. In the letter to
23 Eckelmann, Higbee & Associates stated in part that “we believe the use of the
24 [W]ork is a violation of The Copyright Act, Title 17 of the United States Code” and
25 requested that Eckelmann pay a retroactive license fee. In the Superior Court
26 Complaint, Eckelmann stated that event giving rise to her claim occurred on
27 November 14, 2018, the date of the letter asserting copyright infringement.
28 Eckelmann also stated that Higbee & Associates alleged that Eckelmann owed

1 \$500, and stated that the Superior Court Complaint, “is deemed to adjudicate that
2 claim.” In other words, Eckelmann’s suit seeks to adjudicate whether she engaged
3 in copyright infringement as alleged in Higbee & Associates November 14, 2018
4 letter and therefore whether she owes the retroactive licensing fee.

5 Since the allegations in the Superior Court Complaint require adjudication of
6 a federal question, i.e. whether Eckelmann engaged in copyright infringement and
7 therefore is liable for damages in the form of a retroactive license fee, this case is
8 properly removable pursuant to 28 U.S.C. § 1331 and § 1454.

9 **II. The Other Prerequisites Of Removal Are Satisfied.**

10 This Notice of Removal is timely filed. The relevant statute provides that
11 “[e]ach defendant shall have 30 days after receipt ... of the initial pleading ... to file
12 the notice of removal.” 28 U.S.C. § 1446(b)(2)(B). The Superior Court Complaint
13 was filed on January 19, 2019, served by the Clerk on January 29, 2019, and
14 received by Higbee & Associates on January 31, 2019. As Higbee & Associates is
15 the only named defendant, no other party need consent to the filing of this Notice of
16 Removal.

17 This action is properly removed to the United States District Court for the
18 Northern District of California which is the district “embracing the place where
19 [the] action is pending.” 28 U.S.C. § 1441(a); *see also* 28 U.S.C. § 84(a) (listing the
20 counties within the Northern District of California).

21 Title 28 U.S.C. § 1446(a), requires a copy of all process, pleadings, and
22 orders served upon the removing defendant in the state court action to be included
23 with this Notice of Removal. Attached hereto as Exhibit A is a true and correct
24 copy of the Summons, Pleading, and Proof of Service of the Superior Court Action,
25 which were served on Higbee & Associates.

26 Pursuant to 28 U.S.C. § 1446(d), a Notice to Adverse Party of Removal to
27 Federal Court, attached hereto as Exhibit B, together with this Notice of Removal,
28 will be served upon Eckelmann and the Clerk for the Superior Court.

1 If any question arises as to the propriety of the removal of this action, Higbee
2 & Associates respectfully requests the opportunity to submit briefing and oral
3 argument and to conduct discovery in support of its position that subject matter
4 jurisdiction exists.

5 Dated: February 1, 2019

Respectfully submitted,

7 /s/ Mathew K. Higbee

Mathew K. Higbee, Esq.,

8 Cal. Bar. No.241380

9 **HIGBEE & ASSOCIATES**

1504 Brookhollow Dr., Ste 112

10 Santa Ana, CA 92705-5418

11 (714) 617-8336

(714) 597-6729 facsimile

12 mhigbee@higbeeassociates.com

13 *Counsel for Plaintiff*

Exhibit “A”

SUPERIOR COURT - MARTINE
COUNTY OF CONTRA COSTA
MARTINEZ, CA 94553
(925) 608-1000

CLERK'S CERTIFICATE OF MAILING

CASE TITLE: ECKELMANN VS HIGBEE & ASSOCIATES
CASE NUMBER: MSC19-0072 - SMALL CLAIMS

THIS NOTICE/DOCUMENT HAS BEEN SENT TO THE FOLLOWING ATTORNEYS/PARTIES:

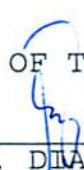
HIGBEE & ASSOCIATES
1504 BROOKHOLLOW DR#112
AOS: MATHEW K HIGBEE
SANTA ANA CA 92705

I am a Clerk of the Court indicated below and am not a party to this cause. On the date below indicated, I served a copy of the attached document(s) by depositing a true copy in the mail in a sealed envelope with postage prepaid, at Martinez, California addressed as above indicated.

TITLE OF DOCUMENT SERVED: PLAINTIFF'S CLAIM AND

DATE MAILED: 01/29/19

CLERK OF THE COURT

BY 
L. DIAZ,
Deputy Clerk

Plaintiff's Claim and ORDER to Go to Small Claims Court

Notice to the person being sued:

- You are the defendant if your name is listed in (2) on page 2 of this form. The person suing you is the plaintiff, listed in (1) on page 2.
- You and the plaintiff must go to court on the trial date listed below. If you do not go to court, you may lose the case.
- If you lose, the court can order that your wages, money, or property be taken to pay this claim.
- Bring witnesses, receipts, and any evidence you need to prove your case.
- Read this form and all pages attached to understand the claim against you and to protect your rights.

Aviso al Demandado:

- Usted es el Demandado si su nombre figura en (2) de la página 2 de este formulario. La persona que lo demanda es el Demandante, la que figura en (1) de la página 2.
- Usted y el Demandante tienen que presentarse en la corte en la fecha del juicio indicada a continuación. Si no se presenta, puede perder el caso.
- Si pierde el caso la corte podría ordenar que le quiten de su sueldo, dinero u otros bienes para pagar este reclamo.
- Lleve testigos, recibos y cualquier otra prueba que necesite para probar su caso.
- Lea este formulario y todas las páginas adjuntas para entender la demanda en su contra y para proteger sus derechos.

Order to Go to Court

The people in (1) and (2) must go to court: (Clerk fills out section below.)

Trial Date	Date	Time	Department	Name and address of court, if different from above
1.	03/18/19	1:30pm	57	Rm. 102
2.				
3.				

Date: JAN 18 2019 Clerk, by B. POOL, Deputy

Instructions for the person suing:

- You are the plaintiff. The person you are suing is the defendant.
- Before you fill out this form, read form SC-100-INFO, *Information for the Plaintiff*, to know your rights. Get SC-100-INFO at any courthouse or county law library, or go to www.courts.ca.gov/smallclaims/forms.
- Fill out pages 2 and 3 of this form. Then make copies of **all** pages of this form. (Make one copy for each party named in this case and an extra copy for yourself.) Take or mail the original and these copies to the court clerk's office and pay the filing fee. The clerk will write the date of your trial in the box above.
- You must have someone at least 18—not you or anyone else listed in this case—give each defendant a court-stamped copy of **all five pages** of this form and any pages this form tells you to attach. There are special rules for "serving," or delivering, this form to public entities, associations, and some businesses. See forms SC-104, SC-104B, and SC-104C.
- Go to court on your trial date listed above. Bring witnesses, receipts, and any evidence you need to prove your case.

Clerk stamps date here when form is filed.

FILED

2019 JAN 18 P 2:03

KATE BIEKER
CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CA

Fill in court name and street address:

Superior Court of California, County of

SUPERIOR COURT - MARTINEZ
725 COURT ST. P.O. BOX 911
MARTINEZ, CA 94553

Court fills in case number when form is filed.

Case Number:

MSC 19 - 0072

Case Name:

Plaintiff (list names):

Case Number:

1 The plaintiff (the person, business, or public entity that is suing) is:

Name: ECKELMANN, CLAUDIA Phone: 925.969.2336

Street address: 82 DIABLO VIEW DR ORINDA CA 94563
Street City State Zip

Mailing address (if different): _____
Street City State Zip

If more than one plaintiff, list next plaintiff here:

Name: _____ Phone: _____

Street address: _____
Street City State Zip

Mailing address (if different): _____
Street City State Zip

☐ Check here if more than two plaintiffs and attach form SC-100A.

☐ Check here if either plaintiff listed above is doing business under a fictitious name. If so, attach form SC-103.

☐ Check here if any plaintiff is a "licensee" or "deferred deposit originator" (payday lender) under Financial Code sections 23000 et seq.

2 The defendant (the person, business, or public entity being sued) is:

Name: HIGBEE & ASSOCIATES Phone: _____

Street address: 1504 BROOK HOLLOW DR #12 SANTA ANA CA 92705
Street City State Zip

Mailing address (if different): _____
Street City State Zip

If the defendant is a corporation, limited liability company, or public entity, list the person or agent authorized for service of process here:

Name: MATHEW K. HIGBEE Job title, if known: ATTORNEY

Address: 1504 BROOKHOLLOW DR #12 Santa Ana CA 92705
Street City State Zip

☐ Check here if your case is against more than one defendant, and attach form SC-100A.

☐ Check here if any defendant is on active military duty, and write his or her name here: _____

3 The plaintiff claims the defendant owes \$ 500⁰⁰. (Explain below):

a. Why does the defendant owe the plaintiff money?

The defendant is claiming that defendant owes \$500.
This action is aimed to adjudicate that claim.

When did this happen? (Date): Nov. 14, 2018

b. If no specific date, give the time period: Date started: _____ Through: _____

c. How did you calculate the money owed to you? (Do not include court costs or fees for service.)

The amount equals what the defendant claims
the plaintiff owes

☐ Check here if you need more space. Attach one sheet of paper or form MC-031 and write "SC-100, Item 3" at the top.

Plaintiff (list names):

Case Number:

- 4 You must ask the defendant (in person, in writing, or by phone) to pay you before you sue. If your claim is for possession of property, you must ask the defendant to give you the property. Have you done this?

☒ Yes ☐ No If no, explain why not:

yes, the plaintiff has requested in writing to cancel the debt - even offered \$25 to settle

- 5 Why are you filing your claim at this courthouse?

This courthouse covers the area (check the one that applies):

- a. ☒ (1) Where the defendant lives or does business. (4) Where a contract (written or spoken) was made, signed, performed, or broken by the defendant or where the defendant lived or did business when the defendant made the contract.
(2) Where the plaintiff's property was damaged.
(3) Where the plaintiff was injured.
- b. ☐ Where the buyer or lessee signed the contract, lives now, or lived when the contract was made, if this claim, is about an offer or contract for personal, family, or household goods, services, or loans. (Code Civ. Proc., § 395(b).)
- c. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, if this claim is about a retail installment contract (like a credit card). (Civ Code, § 1812.10.)
- d. ☐ Where the buyer signed the contract, lives now, or lived when the contract was made, or where the vehicle is permanently garaged, if this claim is about a vehicle finance sale. (Civ Code, § 2984.4.)
- e. ☐ Other (specify):

- 6 List the zip code of the place checked in 5 above (if you know): 94523

- 7 Is your claim about an attorney-client fee dispute? ☐ Yes ☒ No

If yes, and if you have had arbitration, fill out form SC-101, attach it to this form, and check here: ☐

- 8 Are you suing a public entity? ☐ Yes ☒ No

If yes, you must file a written claim with the entity first. ☐ A claim was filed on (date):

If the public entity denies your claim or does not answer within the time allowed by law, you can file this form.

- 9 Have you filed more than 12 other small claims within the last 12 months in California?

☐ Yes ☒ No If yes, the filing fee for this case will be higher.

- 10 Is your claim for more than \$2,500? ☐ Yes ☒ No

If yes, I have not filed, and understand that I cannot file, more than two small claims cases for more than \$2,500 in California during this calendar year.

- 11 I understand that by filing a claim in small claims court, I have no right to appeal this claim.

I declare, under penalty of perjury under California State law, that the information above and on any attachments to this form is true and correct.

Date: Jan. 18, 2019 ECKELHANN, CLAUDIA

Plaintiff types or prints name here

Plaintiff signs here

Date: Second plaintiff types or prints name here

Second plaintiff signs here



Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the trial. Contact the clerk's office for form MC-410, Request for Accommodations by Persons With Disabilities and Response. (Civ. Code, § 54.8.)



"Small claims court" is a special court where claims for \$10,000 or less are decided. Individuals, including "natural persons" and sole proprietors, may claim up to \$10,000. Corporations, partnerships, public entities, and other businesses are limited to claims of \$5,000. (See below for exceptions.)* The process is quick and cheap. The rules are simple and informal. You are the *defendant*—the person being sued. The person who is suing you is the *plaintiff*.

Do I need a lawyer? You may talk to a lawyer before or after the case. But you *may not* have a lawyer represent you in court (unless this is an appeal from a small claims case).

How do I get ready for court? You don't have to file any papers before your trial, unless you think this is the wrong court for your case. But bring to your trial any witnesses, receipts, and evidence that supports your case. And read "Be Prepared for Your Trial" at www.courts.ca.gov/smallclaims/prepare.

What if I need an accommodation? If you have a disability or are hearing impaired, fill out form MC-410, *Request for Accommodations*. Give the form to your court clerk or the ADA/Access Coordinator.

What if I don't speak English well? Ask the court clerk as soon as possible if your court has a court-provided interpreter available and how to request one. A court-provided interpreter may not be available. Alternatively, you may bring an adult who is not a witness or an attorney to interpret for you or ask the court for a list of interpreters for hire.

Where can I get the court forms I need? Go to any courthouse or your county law library, or print forms at www.courts.ca.gov/smallclaims/forms.

What happens at the trial? The judge will listen to both sides. The judge may make a decision at your trial or mail the decision to you later.

What if I lose the case? If you lose, you may appeal. You'll have to pay a fee. (Plaintiffs cannot appeal their own claims.)

- If you were at the trial, file form SC-140, *Notice of Appeal*. You must file within 30 days after the clerk hands or mails you the judge's decision (judgment) on form SC-200 or form SC-130, *Notice of Entry of Judgment*.
- If you were *not* at the trial, fill out and file form SC-135, *Notice of Motion to Vacate Judgment and Declaration*, to ask the judge to cancel the judgment (decision). If the judge does not give you a new trial, you have 10 days to appeal the decision. File form SC-140.

For more information on appeals, see www.courts.ca.gov/smallclaims/appeals.

Do I have options?

Yes. If you are being sued, you can:

- **Settle your case before the trial.** If you and the plaintiff agree on how to settle the case, the plaintiff must file form CIV-110, *Request for Dismissal*, with the clerk. Ask the Small Claims Advisor for help.

- **Prove this is the wrong court.** Send a letter to the court *before* your trial explaining why you think this is the *wrong court*. Ask the court to dismiss the claim. You must serve (give) a copy of your letter (by mail or in person) to all parties. (Your letter to the court must say you have done so.)
- **Go to the trial and try to win your case.** Bring witnesses, receipts, and any evidence you need to prove your case. To have the court order a witness to go to the trial, fill out form SC-107 (*Small Claims Subpoena*) and have it served on the witness.
- **Sue the person who is suing you.** If you have a claim against the plaintiff, and the claim is appropriate for small claims court as described on this form, you may file *Defendant's Claim* (form SC-120) and bring the claim in this action. If your claim is for *more* than allowed in small claims court, you may still file it in small claims court if you give up the amount over the small claims value amount, or you may file a claim for the full value of the claim in the appropriate court. If your claim is for more than allowed in small claims court *and* relates to the same contract, transaction, matter, or event that is the subject of the plaintiff's claim, you may file your claim in the appropriate court and file a motion to transfer the plaintiff's claim to that court to resolve both matters together. You can see a description of the amounts allowed in the paragraph above titled "Small Claims Court."
- **Agree with the plaintiff's claim and pay the money.** Or, if you can't pay the money now, go to your trial and say you want to make payments.
- **Let the case "default."** If you don't settle and do not go to the trial (default), the judge may give the plaintiff what he or she is asking for plus court costs. If this happens, the plaintiff can legally take your money, wages, and property to pay the judgment.

What if I need more time?

You can change the trial date if:

- You cannot go to court on the scheduled date (you will have to pay a fee to postpone the trial), *or*
- You did not get served (receive this order to go to court) at least 15 days before the trial (or 20 days if you live outside the county), *or*
- You need more time to get an interpreter. One postponement is allowed, and you will not have to pay a fee to delay the trial.

Ask the Small Claims Clerk about the rules and fees for postponing a trial. Or fill out form SC-150 (or write a letter) and mail it to the court *and* to all other people listed on your court papers before the deadline. Enclose a check for your court fees, unless a fee waiver was granted.



Need help?

Your county's Small Claims Advisor can help for free.



Or go to www.courts.ca.gov/smallclaims/advisor.

* Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).)



La "Corte de reclamos menores" es una corte especial donde se deciden casos por \$10,000 o menos. Los individuos, o sea las "personas físicas" y los propietarios por cuenta propia, pueden reclamar hasta \$10,000. Las corporaciones, asociaciones, entidades públicas y otras empresas solo pueden reclamar hasta \$5,000. (Vea abajo para las excepciones.*) El proceso es rápido y barato. Las reglas son sencillas e informales. Usted es el Demandado—la persona que se está demandando. La persona que lo está demandando es el Demandante.

¿Necesito un abogado? Puede hablar con un abogado antes o después del caso. Pero no puede tener a un abogado que lo represente ante la corte (a menos que se trate de una apelación de un caso de reclamos menores).

¿Cómo me preparo para ir a la corte? No tiene que presentar ningunos papeles antes del juicio, a menos que piense que ésta es la corte equivocada para su caso. Pero lleve al juicio cualquier testigos, recibos y pruebas que apoyan su caso. Y lea "Esté preparado para su juicio" en www.courts.ca.gov/reclamosmenores/preparesse.

¿Qué hago si necesito una adaptación? Si tiene una discapacidad o tiene impedimentos de audición, llene el formulario MC-410, Request for Accommodations. Entregue el formulario al secretario de la corte o al Coordinador de Acceso/ADA de su corte.

¿Qué pasa si no hablo bien inglés? Pregúntele al secretario de la corte lo más pronto posible si en el juzgado habrá un intérprete disponible y cómo solicitarlo. No siempre están disponibles los intérpretes de la corte. Otra opción es llevar a un adulto que pueda interpretar para usted siempre que esa persona no sea un testigo ni un abogado. O puede pedir a la corte una lista de intérpretes particulares disponibles para contratar.

¿Dónde puedo obtener los formularios de la corte que necesito? Vaya a cualquier edificio de la corte, la biblioteca legal de su condado, o imprima los formularios en www.courts.ca.gov/smallclaims/forms (página está en inglés).

¿Qué pasa en el juicio? El juez escuchará a ambas partes. El juez puede tomar su decisión durante la audiencia o enviársela por correo después.

¿Qué pasa si pierdo el caso? Si pierde, puede apelar. Tendrá que pagar una cuota. (El Demandante no puede apelar su propio reclamo.)

- Si estuvo presente en el juicio, llene el formulario SC-140, *Aviso de apelación* (Notice of Appeal). Tiene que presentarlo dentro de 30 días después de que el secretario le entregue o envíe la decisión (fallo) del juez en el formulario SC-200 o SC-130, *Aviso de publicación del fallo* (Notice of Entry of Judgment).
- Si no estuvo en el juicio, llene y presente el formulario SC-135, *Aviso de petición para anular el fallo y Declaración* para pedirle al juez que anule el fallo (decisión). Si la corte no le otorga un nuevo juicio, tiene 10 días para apelar la decisión. Presente el formulario SC-140.

Para obtener más información sobre las apelaciones, vea www.courts.ca.gov/reclamosmenores/apelaciones.

¿Tengo otras opciones? Sí. Si lo están demandando, puede:

- **Resolver su caso antes del juicio.** Si usted y el Demandante se ponen de acuerdo en cómo resolver el caso, el Demandante tiene que presentar el formulario CIV-110, *Solicitud de desestimación* (Request for Dismissal) ante el secretario de la corte. Pídale al Asesor de Reclamos Menores que lo ayude.

- **Probar que es la corte equivocada.** Envíe una carta a la corte antes del juicio explicando por qué cree que es la corte equivocada. Pídale a la corte que despida el reclamo. Tiene que entregar (dar) una copia de su carta (por correo o en persona) a todas las partes. (Su carta a la corte tiene que decir que hizo la entrega.)
- **Ir al juicio y tratar de ganar el caso.** Lleve testigos, recibos y cualquier prueba que necesite para probar su caso. Si desea que la corte emita una orden de comparecencia para que los testigos vayan al juicio, llene el formulario SC-107, *Citatorio de reclamos menores* (Small Claims Subpoena) y entrégueselo legalmente al testigo.
- **Demandar a la persona que lo demandó.** Si tiene un reclamo contra el Demandante, y el reclamo se puede presentar en la corte de reclamos menores, tal como se describe en este formulario, puede presentar el formulario SC-120, *Reclamo del demandado* (Defendant's Claim) y presentarlo en este mismo caso. Si su reclamo excede el límite permitido en la corte de reclamos menores, puede igualmente presentarlo en la corte de reclamos menores si está dispuesto a limitar su reclamo al máximo permitido, o puede presentar un reclamo por el monto total en la corte apropiada. Si su reclamo excede el límite permitido en la corte de reclamos menores y está relacionado con el mismo contrato, transacción, asunto o acontecimiento que el reclamo del Demandante, puede presentar su reclamo en la corte apropiada y presentar una moción para transferir el reclamo del Demandante a dicha corte, para poder resolver los dos reclamos juntos. Puede ver una descripción de los montos permitidos en el párrafo anterior titulado "Corte de reclamos menores".
- **Aceptar el reclamo del Demandante y pagar el dinero.** O, si no puede pagar en ese momento, vaya al juicio y diga que quiere hacer los pagos.
- **No ir al juicio y aceptar el fallo por falta de comparecencia.** Si no llega a un acuerdo con el Demandante y no va al juicio (fallo por falta de comparecencia), el juez le puede otorgar al Demandante lo que está reclamando más los costos de la corte. En ese caso, el Demandante legalmente puede tomar su dinero, su sueldo o sus bienes para cobrar el fallo.
- **¿Qué hago si necesito más tiempo?** Puede cambiar la fecha del juicio si:
 - No puede ir a la corte en la fecha programada (tendrá que pagar una cuota para aplazar el juicio), o
 - No le entregaron los documentos legalmente (no recibió la orden para ir a la corte) por lo menos 15 días antes del juicio (ó 20 días si vive fuera del condado), o
 - Necesita más tiempo para conseguir intérprete. (Se permite un solo aplazamiento sin tener que pagar cuota para aplazar el juicio).

Pregúntele al secretario de reclamos menores sobre las reglas y las cuotas para aplazar un juicio. O llene el formulario SC-150 (o escriba una carta) y envíelo antes del plazo a la corte y a todas las otras personas que figuran en sus papeles de la corte. Adjunte un cheque para pagar los costos de la corte, a menos que le hayan dado una exención.



¿Necesita ayuda? El Asesor de Reclamos Menores de su condado le puede ayudar sin cargo.

O visite www.courts.ca.gov/reclamosmenores/asesores.

* Excepciones: Existen diferentes límites en un reclamo contra un garante. (Vea el Código de Procedimiento Civil, sección 116.220 (c).)

Exhibit “B”

1 Mathew K. Higbee, Esq., SBN 241380
2 Ryan E. Carreon, Esq., SBN 311668
3 **HIGBEE & ASSOCIATES**
4 1504 Brookhollow Dr., Suite 112
5 Santa Ana, CA 92705
(714) 617-8336
(714) 597-6559 facsimile
Email: mhigbee@higbeeassociates.com
Email: rcarreon@higbeeassociates.com

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF CONTRA COSTA**

8 Case No. MSC19-0072

9 CLAUDIA ECKELMANN,
10 Plaintiff,

11 v.

12 HIGBEE & ASSOCIATES,
13 Defendant.

**DEFENDANT HIGBEE &
ASSOCIATES' NOTICE TO THE
CLERK OF THE SUPERIOR
COURT AND ADVERSE PARTY OF
REMOVAL TO FEDERAL COURT
UNDER 28 U.S.C. §§ 1331 and 1454.**

14 Complaint Filed: January 18, 2018

1 **TO THE CLERK OF THE SUPERIOR COURT OF CALIFORNIA**
2 **FOR THE COUNTY OF CONTRA COSTA AND ALL OTHER PARTIES:**

3 **PLEASE TAKE NOTICE** that on February 1, 2019, this action was
4 removed to the United States District Court, Northern District of California located
5 at 1301 Clay Street, Oakland, CA 94612. True and Correct copies of the Notice of
6 Removal of Action, Civil Cover Sheet, and Notice of Interested Parties are attached
7 hereto as Exhibit A, B, and C respectively.

8 Dated: February 1, 2019

Respectfully submitted,

10 /s/ Mathew K. Higbee

Mathew K. Higbee, Esq.,

Cal. Bar. No.241380

12 **HIGBEE & ASSOCIATES**

1504 Brookhollow Dr., Ste 112

Santa Ana, CA 92705-5418

(714) 617-8336

(714) 597-6729 facsimile

mhigbee@higbeeassociates.com

Counsel for Plaintiff

PROOF OF SERVICE

I, the undersigned, say:

I am a citizen of the United States and I am a member of the Bar of this Court. I am over the age of 18 and not a party to the within action My business address is 1504 Brookhollow Dr., Ste 112, Santa Ana, California, 92705.

On February 1, 2019, I caused to be served the foregoing documents:

Notice to Clerk And Adverse Party of Removal

X On the date of execution of this declaration, I caused to be served the documents described above on all parties in this action by placing a true copy thereof enclosed in a sealed envelope and mailing it to the following address:

Clerk of the Superior Court
Small Claims Division
County of Contra Costa, California
725 Court Street, Room 103
Martinez, California 94553

Claudia Eckelmann
82 Diablo View Drive
Orinda, California 94563

I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on February 1, 2019, at Santa Ana, California.

/s/ Leeah J. Banks
Leeah J. Banks

PROOF OF SERVICE

I, the undersigned, say:

I am a citizen of the United States and I am a member of the Bar of this Court. I am over the age of 18 and not a party to the within action My business address is 1504 Brookhollow Dr., Ste 112, Santa Ana, California, 92705.

On February 1, 2019, I caused to be served the foregoing documents:

Notice of Motion of Removal

X On the date of execution of this declaration, I caused to be served the documents described above on all parties in this action by placing a true copy thereof enclosed in a sealed envelope and mailing it to the following address:

Claudia Eckelmann
82 Diablo View Drive
Orinda, California 94563

I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on February 1, 2019, at Santa Ana, California.

/s/ Leeah J. Banks
Leeah J. Banks